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Client: 65461-00001

June 3, 2019

VIA EMAIL

John D. Fabian and Douglas A. Penrose
Assistant United States Attorney
United States Attorney of the Western District of New York
138 Delaware Avenue
Buffalo, New York 14202

Re: United States v. Robert Morgan, Superseding Indictment No. 18-108 EAW

Dear Mr. Fabian and Mr. Penrose:

Just prior to Mr. Robert Morgan's arraignment before Magistrate Judge Roemer on May 22, 2019, you both shared with us orally in the courtroom that the Department of Justice was considering whether to pursue pretrial asset forfeiture and/or freeze actions affecting Mr. Morgan, depending on the outcome of those being pursued by the Securities and Exchange Commission ("SEC"), for which they moved in an emergency action that same day. About a week later, in your May 28, 2019 letter, you asserted that Mr. Morgan has an interest in some of the real properties set forth in the Superseding Indictment¹ (collectively, the "Real Properties"), and that Title 18, United States Code Section 2232 prohibits, among other conduct, knowingly taking action that interferes with the forfeiture of a property for the purpose of preventing or impairing the government's lawful authority to seize and hold it, or impairing the Court's jurisdiction over it.

We now request immediate clarification as to whether the government intends to prevent the sale or transfer to a third party of any of the Real Properties, including those in which Mr. Morgan holds only a partial interest. Your May 22 statement and May 28 letter, along with the SEC's continued pursuit of an asset freeze and other relief unnecessarily raises concerns about Mr. Morgan's ability to participate in property sales and to exercise his Sixth Amendment right to retain counsel of his choice. As Mr. Morgan currently is required by order of Magistrate Judge Schroeder to identify retained counsel by June 10, 2019 to represent him in the indicted matter, we respectfully request a written clarification of the

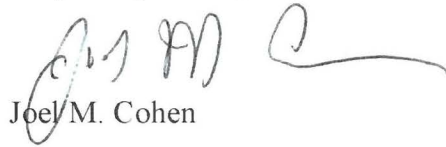
¹ Those properties are Rugby Square Apartments, Morgan Ellicott Apartments, Avon Commons, Rochester Village Apartments, The Reserve at Southpointe, Eden Square Apartments, Park Place at South Park, Ellison Heights Apartments, Union Square Apartments, and the Links at Centerpointe Townhomes. Superseding Indictment at 51-54, U.S. v. Giacobbe, et al. No. 18-108 EAW (W.D.N.Y. May 21, 2019).

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Douglas A. Penrose
June 3, 2019
Page 2

government's position by 2 P.M. on June 4, 2019, so we may timely raise the issues if necessary this week with Judge Wolford.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Joel M. Cohen", followed by a long horizontal flourish line.

Joel M. Cohen